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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,260	03/01/2002	Tomotaka Koketsu	1055-02	2943
35811	7590	08/23/2006	EXAMINER	
IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP			BEFUMO, JENNA LEIGH	
1650 MARKET ST			ART UNIT	
SUITE 4900			PAPER NUMBER	
PHILADELPHIA, PA 19103			1771	

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/070,260

**Applicant(s)**

KOKETSU ET AL.

**Examiner**

Jenna-Leigh Befumo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

1. The Amendment submitted on June 12, 2006, has been entered. Claims 3 – 14 have been cancelled. Claim 1 has been amended. Therefore, the pending claims are 1 and 2.
2. The 35 USC 103 rejection based on Fastenau et al. (6,147,017) is withdrawn since the sinusoidal shaped fiber would not be bisected by a substantially straight line.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. The phrase “a line bisecting the cross section of monofilaments in a direction of the major axis of the cross section being substantially straight” in claim 1 is rejected. It is unclear if the applicant is claiming that this line is actually, physically present in the claimed fiber. Or, is the applicant referring to an imaginary line that can be made across the cross section of the fiber. Based on the specification and the applicant’s arguments it does not appear that the line is physically present in the claimed fiber, but is just included in the claim to further define the shape of the fibers.

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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7. Claims 1 and 2 stand rejected under 35 U.S.C. 103(a) as being unpatentable over JP 07-252740A (English Translation) for the reasons of record.

***Response to Arguments***

8. Applicant's arguments filed June 12, 2006 have been fully considered but they are not persuasive. The applicant argues that JP 07-252740 A fails to teach the claimed entanglements and would only suggest to one of ordinary skill in the art to use a high level of entanglements and would therefore not produce the superior properties of the claimed invention (response, pages 4 – 6). However, JP 07-252740 A discloses that entanglements *can* be applied to the yarn, and the entanglement *can* be made *high* by altering pressure of the air applied to the yarn (paragraph 36). Even though JP 07-252740 A states that entanglements *can* be applied, they are not required. Further, JP 07-252740 A does not teach a specific number of entanglements are required. Thus, the number of entanglements in the yarn would need to be interpreted based on the patent as a whole.

JP 07-252740 A discloses that the invention and the improved permeability, flexibility, and weight properties are a result of using the flattened filaments in the yarn such that major axis of the filaments run parallel to the surface of the fabric. In other words, the less twist and variation in the filaments orientation, the better these properties would be in the finished fabric. Thus, one of ordinary skill in the art would understand that since the improved properties are a result of using flat filaments which run substantially in parallel with the fabric's surface, the filaments should remain as flat as possible along the length of the yarn. Thus, if entanglements, which would twist and turn the filaments, were used, one of skill in the art would minimize the number of entanglements to maintain the improved permeability, flexibility, and weight

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properties, while having some entanglement points along the length of the yarn to keep the yarn together during processing and production of the fabric. Thus, the rejection is maintained.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, reading "Jenna-Leigh Befumo". The signature is written in a cursive, flowing style.

Jenna-Leigh Befumo  
August 14, 2006